HON'BLE MR.JUSTICE R.SUBHASH REDDY

Writ Petition No.11173 of 2006

Date: November 15, 2011

Between:

Sri B.Lingam

… Petitioner

And

Central Power Distribution Co. of
Andhra Pradesh Ltd., having office at Singareni Bhavan, Hyderabad, rep. by Chief General Manager and others

… Respondents

Order:

Petitioner is having electricity service connection under Low Tension Category-II and availing supply from the Andhra Pradesh Central Power Distribution Co. Ltd. (APCPDCL), vide S.C.No.522-13, as per the terms and conditions of supply. His service connection was inspected by the Additional A.E./Operation/Bhagyanagar on 12.09.2005 and it was found that he was utilizing the supply directly and the same was not commensurate with the connected load. On the allegation of theft of energy, assessment proceedings were initiated against him to assess the loss of energy. The 3rd respondent, Divisional Engineer, Assessments-3, by order dated 26.10.2005, vide proceedings No.DEA-III/HYD/DAT.23993/D.No.8975, by giving opportunity to the petitioner, assessed the loss at Rs.28,395/- and directed him to pay the same within a period of 30 days therefrom, so as to avail supply without interruption. Against the said order, petitioner filed an appeal before the 2nd respondent, Superintending Engineer, Assessments, who, by order dated 30.11.2005 passed vide Lr.No.SEA/HYD/SAP.No.5409/D.No.2336, rejected the same. It is those orders which are under challenge in this writ petition.

2. Mainly, it is the case of the petitioner that in

view of the provision under Section 126 of the Electricity Act, 2003, the assessment should have been confined for the period as mentioned under Section 126(5) of the Act. As the assessment is made for a period of 12 months, it is pleaded that such assessment is illegal and contrary to Section 126 of the Act.

3. Counter affidavit is filed by the respondents. In the counter, while denying the allegations made by the petitioner, it is stated that the petitioner has indulged in pilferage of energy; as such Sections 126 and 127 of the Act have no application to the impugned proceedings.

4. Heard learned counsel for petitioner and also the learned counsel appearing for respondents.

5. I have perused the provisions under Sections 126 and 135 of the Act. Section 126 of the Act relates to assessments where there is unauthorized use of energy. In case of unauthorized use of energy, as per Section 126(5) of the Act, it shall be presumed that such unauthorized use of energy was for a period of minimum three months in the case of domestic and agricultural services, and for a period of six months for all other category of services, unless the onus is rebutted by the person, occupier or possessor of such premises or place.

Section 135 of the Electricity Act, 2003 deals with the theft of electricity. In this case, in view of the allegation made against the petitioner, it falls within the scope of Section 135 of the Act. The specific allegation of the respondents is to the effect that the petitioner is utilizing the supply directly. As the validity of the impugned order is questioned only on one ground, as this Court is of the view that in view of the allegations made against the petitioner, it is a case of theft of energy falling under Section 135 of the Electricity Act, but, not a case of unauthorized use as contemplated under Section 126 of the said Act, I do not find any illegality in the impugned demand, so as to interfere with the same.

6. It is stated that pending the assessment proceedings, the petitioner has deposited an amount of Rs.11,342/-. In that view of the matter, petitioner is granted three months time from today for payment of the balance amount pursuant to the impugned proceedings. If the amount demanded as per the impugned proceedings is not paid within three months, it is open to the respondents to issue notice for disconnection and take steps in accordance with the terms and conditions of supply.

7. Subject to the above directions, the writ petition is

disposed of. No order as to costs.

(R.SUBHASH REDDY, J)

November 15, 2011
MRR